

REMARKS

I. Drawings

Applicant acknowledges the Examiner's objection to the drawings. Upon the Examiner's indication that at least one claim of the application is allowable, formal replacement drawings overcoming the Examiner's objection will be submitted.

II. Specification

The Examiner objected to the informalities that the specification lacks antecedent basis for the term "rear support wall." All references to the "rear support frame" in the Specification have been amended to be "rear support wall." Therefore, Applicant believes this rejection is now moot.

III. Claim Rejections – 35 U.S.C. §102(b)

Reconsideration is respectfully requested of the Examiner's rejection of Claims 1-5 under 35 U.S.C. 102(b) as being anticipated by Ferrari (U.S. Patent No. 4,927,138). The Examiner relied on the Ferrari reference as disclosing all the elements of the claims.

A claim is anticipated under 35 U.S.C. §102(b) only if "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Amended Claim 1 claims a portable and foldable exercise apparatus comprising:

- a. at least one removable, horizontal user gripping bar for supporting at least portion of the force generated by a user during exercise;

- b. a vertical frame capable of supporting at least portion of the force generated by a user during exercise comprising
 - i. a free-standing generally rectangular shaped vertical rear support wall and
 - ii. at least one pair of generally rectangular shaped vertical side support frames pivotally attached to said rear support wall to be in an open U-shaped position for use or a closed and compact folded position for storage; and
 - c. at least one user support base having opposing sides and opposing ends and capable of supporting at least a portion of the force generated by a user during exercise,
each user gripping bar being removably attached to each pair of vertical side support frames and substantially parallel to the planes of both said rear support wall and said user support base; and
said opposing sides of said user base being removably attached to each pair of vertical side support frames and one end of each user base abutting said vertical rear support wall.

The Ferrari reference fails to disclose, at least, the above elements shown in ***bold and italics***.

The horizontal member of the Ferrari reference fails to be “removably attached to each pair of vertical side support frames” and fails to be “substantially parallel to the planes of both the rear support wall and the user support base.” At most, each horizontal member of the Ferrari reference is attached to each vertical side support, and not “removably attached to each pair of the vertical side support frames” of the present invention. Further, the horizontal member of the Ferrari reference is only parallel to the plane of the user support base and not to both the rear support wall and the user support base of the present invention.

Therefore, the Ferrari reference differs in construction and fails to disclose “each and every element” of amended Claim 1 and all claims dependent therefrom, as required under a §102(b) rejection. Hence, Claims 1-5 are not anticipated by the Ferrari reference.

III. Conclusion

If the Examiner has any questions on the above and believes a telephone conference will aid in the allowance of the application, please contact the undersigned by telephone.

By virtue of the Applicants' amendment to the claims and specification and remarks thereto, all outstanding grounds of rejection and objection have been addressed and dealt with and, based thereon, it is believed that the application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,

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